IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

OP.No. 9210 of 2003(U)

PETITIONER:

SIVASANKARAN, S/O. KRISHNAN,
KALLIYANIYIL HOUSE, JELLIPARA P.O.,
ATTAPPADY, MANNARKKAD (VIA), PALAKKAD DISTRICT.

BY ADV. SRI.K.MOHANA KANNAN
SMT.PRAVITHA A.R

RESPONDENTS:
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1. THE BRANCH MANAGER, CANARA BANK,
MUKKALI BRANCH, P.O.MUKKALI, PALAKKAD DISTRICT.

2. THE REGIONAL MANAGER, CANARA BANK
REGIONAL OFFICE, THRISSUR.

3. THE TAHSILDAR, TALUK OFFICE,
MANNARKKAD.

R1 AND R2 BY ADV. SRI.R.S.KALKURA
R3 BY GOVERNMENT PLEADER SMT. SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 16010 OF 2003 IN OP 9210 OF 2003

DISMISSED

3.12.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE NOTICE DATED 25.10.2001 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P2 TRUE COPY OF THE REPRESENTATION DATED 15.3.2002 SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF THE REPLY SENT BY THE BANK TO THE PETITIONER DATED 29.8.2002

EXT.P4 TRUE COPY OF THE NOTICE OF SALE DATED 20.9.2002 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.

EXT.P5 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 25.10.2002

EXT.P6TRUE COPY OF THE GUIDELINES ISSUED BY THE RESERVE BANK OF INDIA FOR RECOVERY OF DUES RELATING TO NON PERFORMING ASSETS.

FIRST RESPONDENT'S EXHIBITS:

EXT.R1(a) TRUE COPY OF THE LETTER OF SANCTION DATED 23.2.1995

EXTR1(b) TRUE COPY OF THE LOAN AGREEMENT EXECUTED BY THE PETITIONER.

EXT.R1(c) TRUE COPY OF THE UNDERTAKING GIVEN BY THE PETITIONER ACCEPTING THE TERMS OF ONE TIME SETTLEMENT DATED 10.3.2003

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 9210 OF 2003

Dated this the 3rd day of December, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for the Bank. Petitioner admittedly availed loan from the first respondent-Bank and committed default. Consequently recovery was initiated. Under interim orders of this Court petitioner paid Rs. 25,000/-. Besides this, petitioner has paid Rs. 49,510/- is the contention of counsel for the petitioner. According to the petitioner, loan was availed for starting a mini dairy farm and petitioner sustained loss on account of death of cows. In any case, since it is a priority sector loan, Bank should show some leniency to the petitioner, more so when the business failed. Counsel for the Bank submitted that though incentives were offered, petitioner did not avail the benefit by remitting the amount. O.P. is accordingly disposed of directing the first respondent to grant incentives under RBI guidelines for settlement of liability. Petitioner is free to avail the incentives available under RBI circulars and settle the liability. If time for granting incentives under the RBI guidelines is

over, there will be direction to the Bank to waive complete penal and default interest and allow the petitioner to settle liability at contract rate of interest after setting off the payments already made by the petitioner. Third respondent is directed to withhold recovery proceedings for six months from now to enable the petitioner to settle liability with the Bank. If the petitioner does not settle liability under OTS or excluding penal and default interest as stated above, full amount will be recovered from the petitioner with penal interest and other charges.

(C.N. RAMACHANDRAN NAIR)
Judge